

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DARRON HEREFORD,

Petitioner, CIVIL CASE NO. 04-40293

v.

MILLICENT WARREN,

Respondent.

HONORABLE PAUL V. GADOLA
U.S. DISTRICT COURT

ORDER ACCEPTING AND ADOPTING REPORT AND RECOMMENDATION

Petitioner filed the instant action seeking a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Before the Court is Respondent's motion for summary judgment, seeking dismissal without prejudice based Petitioner's failure to exhaust his state remedies as to one of his claims, and the Report and Recommendation of United States Magistrate Judge R. Steven Whalen. The Magistrate Judge recommends that Respondent's motion be denied and Respondent be directed to respond to the merits of the petition.

Having conducted a de novo review of the Report and Recommendation, Respondent's motion, Petitioner's response, and the applicable portions of the record, **IT IS HEREBY ORDERED** that the Report and Recommendation [docket entry 29] is **ACCEPTED** and **ADOPTED** as the opinion of this Court, Respondent's motion for summary judgment [docket entry 7] is **DENIED**, and Respondent is directed to file a **RESPONSE** to the merits of the petition within **TWENTY-ONE (21) DAYS** of service of this order.

SO ORDERED.

Dated: March 31, 2006

s/Paul V. Gadola

HONORABLE PAUL V. GADOLA
UNITED STATES DISTRICT JUDGE

Certificate of Service

I hereby certify that on April 3, 2006, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

Laura G. Moody, and I
hereby certify that I have mailed by United States Postal Service the paper to the
following non-ECF participants: Mark N. Awada.

s/Ruth A. Brissaud

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